

He would not provide a clear answer on whether he supported Lina Khan's decision to remove key procedural requirements attached to FTC rulemaking—the very statutory, procedural requirements that were instituted in direct response to the Agency's flagrant abuses of its own power in the 1970s.

And he openly supports Lina Khan's decision to close out the voice of minority commissioners to approve investigations—an action that has destroyed a bipartisan hallmark of the Commission.

Mr. Bedoya did not earn my confidence in his hearing. His nomination is not designed to strengthen American business or bolster our economy. Instead, his nomination will give the Commission the majority it needs to take American economic regulation out of the hands of elected lawmakers.

We have to remember that the very first clause of the very first section of the very first article of the Constitution says that all legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and a House of Representatives. In other words, all Federal lawmaking power—legislative powers or lawmaking powers—the power to make Federal law as articulated in article I, section I, clause 1—is vested in Congress, not in an outside Agency.

Article I, section VII puts even more clarity on it in explaining that, in order to pass a Federal law, you have got to have passage by the Senate and passage by the House of the same piece of legislation, followed by presentment to the President, resulting in signature, veto, or acquiescence. Without that, you cannot make a Federal law.

When we pretend to make Federal lawmakers outside of Congress, we have got to be very careful because this is subversive of the entire purpose of the Constitution, putting in the most dangerous power—the power to make prescriptive laws, the power to make laws adding to, altering, materially changing the obligations of members of the public. You have got to go through the branch of government that is most accountable to the people at the most regular intervals.

That is why this is so concerning that you have in Mr. Bedoya, like you have in Lina Khan, someone who doesn't fear this type of unaccountable, de facto lawmaking, not only outside of what the Constitution can countenance fairly but also outside of basic standards of accountability and good government.

For all of these reasons, I fear that Mr. Bedoya will not only enable but will support the blatant attempts made by Lina Khan to return the FTC to its status as the "National Nanny" and, ultimately, the national enemy.

Under her leadership, the FTC has shown disregard for the input of minority commissioners and has been frustrated by the legal limits surrounding

the FTC's authority. Lina Khan is not afraid to lead the Agency on a path that ignores legal, constitutional, and procedural roadblocks in its way.

I am committed to reversing the dangerous trajectory of the FTC; to making sure that we don't return to the 1970s era of the FTC's being the nanny of the nanny state; and to making sure that we restore the FTC's accountability to Congress and, ultimately, to the people.

We have to remember that true accountability in our system of government—accountability related to what the law is and how the law is written—always has to be with Congress. That is why article I is written the way that it is. It is why this is something that has to be understood appropriately as a nondelegable duty—that is, the power to make law.

We have got to restore that accountability, and I fear that Mr. Bedoya will only further enable the radical takeover of the Federal Trade Commission. I, therefore, cannot and will not support his nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. SINEMA).

## EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, I ask unanimous consent to speak for up to 90 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NOMINATION OF LAEL BRAINARD

Mr. BROWN. Madam President, as America faces rising prices caused by corporate greed in a global pandemic and Putin's war, having a full Fed Board has never been more vital. Today, we take the first step.

Dr. Brainard is a highly qualified economist with decades of experience. She served as a member of the Board of Governors of the Federal Reserve since 2014. She championed efforts to modernize and strengthen the Community Reinvestment Act. She is committed to addressing and staying ahead of financial risks to our economy. She has a long history of bipartisan support and collaboration. She served in administrations of both parties.

I urge my colleagues to support the nomination and to vote for Lael Brainard to the Federal Reserve.

### VOTE ON BRAINARD NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the Brainard nomination?

Mr. MENENDEZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY), the Senator from Delaware (Mr. COONS), the Senator from Connecticut (Mr. MURPHY), the Senator from Michigan (Mr. PETERS), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 136 Ex.]

### YEAS—52

Baldwin	Heinrich	Rosen
Bennet	Hickenlooper	Rounds
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Collins	Lujan	Stabenow
Cortez Masto	Lummis	Tester
Crapo	Manchin	Van Hollen
Duckworth	Markey	Warner
Durbin	Menendez	Warnock
Feinstein	Merkley	Warren
Gillibrand	Murray	Whitehouse
Graham	Ossoff	Young
Hagerty	Padilla	
Hassan	Reed	

### NAYS—43

Barrasso	Grassley	Risch
Blackburn	Hawley	Romney
Blunt	Hoeben	Rubio
Boozman	Hyde-Smith	Sasse
Braun	Inhofe	Scott (FL)
Burr	Johnson	Scott (SC)
Capito	Kennedy	Shelby
Cassidy	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Marshall	Tillis
Cramer	McConnell	Toomey
Cruz	Moran	Tuberville
Daines	Murkowski	Wicker
Ernst	Paul	
Fischer	Portman	

### NOT VOTING—5

Casey	Murphy	Wyden
Coons	Peters	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's actions.

The Senator from Ohio.

### UNANIMOUS CONSENT REQUEST—ORDER OF PROCEDURE

Mr. BROWN. Madam President, I ask unanimous consent that notwithstanding rule XXII, the cloture vote with respect to the Cook nomination occur at a time to be determined by the majority leader following consultation with the Republican leader; further, that prior to April 29, 2022, the

Senate proceed to executive session to consider the following two nominations: Calendar No. 807, Jerome H. Powell, and Calendar No. 809, Philip Nathan Jefferson; that there be 60 minutes for debate, equally divided in the usual form, on each nomination; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, reserving the right to object, I want to be clear about what this unanimous consent request is about and what it attempts to do. It is an attempt not to vote, to not have the vote on Lisa Cook, the nominee. I have to say it is a reminder of how short memories are around here.

The irony of this situation we find ourselves in is that the vacancy on the Federal Reserve Board is only a vacancy because, when Republicans had COVID absences, our Democratic colleagues would not extend the courtesy of rescheduling the vote to confirm Judy Shelton. Instead, the vote failed, and she was not confirmed. Then, lo and behold, we have this vacancy that has been proposed to be filled by Lisa Cook.

I should also point out how persistently we tried in good faith and on multiple occasions to process Fed noms throughout this entire year. We could have confirmed Chairman Powell in January. We could have processed four out of five of the Fed noms in the Banking Committee very quickly, including Ms. Cook, but our Democratic colleagues refused to allow us to process those four out of five because we did not want to process Sarah Raskin.

Now, Ms. Raskin ended up having to withdraw because there was bipartisan opposition to the radical views that she had espoused that the regulatory apparatus of the Fed ought to be used to allocate capital throughout our economy. Fortunately, there was bipartisan opposition to this idea.

Now it appears—and I guess it is the logic of my colleagues—that we can proceed as long as we are confirming everyone but Chairman Powell first. I don't understand why that has to be, but they filed cloture before the Easter break, on Professor Cook, and now they find themselves in this awkward position.

Here is what it boils down to. It is very simple. I want to vote on all of the noms. Republicans are ready to vote on all of the noms. Our Democratic colleagues have complained

about not having votes. We want to vote. We want to vote on Lisa Cook. We want to vote on Chairman Powell. We want to vote on Mr. Jefferson.

We are ready to vote, not to cancel a vote, so I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Ohio.

Mr. BROWN. Madam President, I ask unanimous consent to speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Madam President, I understand that the objection holds—that the ranking member of the Senate's Banking, Housing, and Urban Affairs Committee is essentially saying he is not willing to vote on all three of these—two of them right now, the other one a bit later. I mean, it could be right now. Again, we have tried to move on these nominations.

My friend from Pennsylvania launched a boycott of a committee that I have never seen or a boycott which actually, because of the 50-50 Senate, stopped us—literally stopped us—from holding a vote. He knows that, and he knows they have done everything they can to stop Lisa Cook's nomination—everything.

I would point out also that it is not exactly an accurate version of history. Judy Shelton, whom my colleague mentioned, would have gone down if everybody had been there. He forgets that part. It wasn't just one Republican Member who was sick; it was another Republican Member who was going to vote no, and he understood the array of people in both parties who were opposed to Ms. Shelton.

In understanding that, my colleague is saying let's not vote on any of the three of them—on either the two of them today and then Lisa Cook later. I understand the rules of the Senate, and that is the way it will be.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 844, Lisa DeNell Cook, of Michigan, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2010.

Charles E. Schumer, Mazie Hirono, Martin Heinrich, Tim Kaine, Jack Reed, Jacky Rosen, Ben Ray Lujan, Christopher A. Coons, Alex Padilla, Sheldon Whitehouse, Sherrod Brown, Debbie Stabenow, Christopher Murphy, Patrick J. Leahy, John W. Hickenlooper, Tammy Baldwin, Angus S. King.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Lisa DeNell Cook, of Michigan, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. MURPHY) and the Senator from Oregon (Mr. WYDEN), are necessarily absent.

The yeas and nays resulted—yeas 47, nays 51, as follows:

[Rollcall Vote No. 137 Ex.]

#### YEAS—47

Baldwin	Heinrich	Peters
Bennet	Hickenlooper	Reed
Blumenthal	Hirono	Rosen
Booker	Kaine	Sanders
Brown	Kelly	Schatz
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Lujan	Stabenow
Coons	Manchin	Tester
Cortez Masto	Markey	Van Hollen
Duckworth	Menendez	Warner
Durbin	Merkley	Warnock
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Hassan	Padilla	

#### NAYS—51

Barrasso	Graham	Portman
Blackburn	Grassley	Risch
Blunt	Hagerty	Romney
Boozman	Hawley	Rounds
Braun	Hoeven	Rubio
Burr	Hyde-Smith	Sasse
Capito	Inhofe	Schumer
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Shelby
Cotton	Lee	Sullivan
Cramer	Lummis	Thune
Crapo	Marshall	Tillis
Cruz	McConnell	Toomey
Daines	Moran	Tuberville
Ernst	Murkowski	Wicker
Fischer	Paul	Young

#### NOT VOTING—2

Murphy Wyden

(Mr. KAINE assumed the Chair.)

(Mr. HICKENLOOPER assumed the Chair.)

(Mr. KING assumed the Chair.)

The PRESIDING OFFICER (Mr. MARKEY). On this vote, the yeas are 47, the nays are 51.

The motion is rejected.

The majority leader.

#### MOTION TO RECONSIDER

Mr. SCHUMER. Mr. President, I enter a motion to reconsider the failed cloture vote.

The PRESIDING OFFICER. The motion is entered.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I ask unanimous consent to withdraw the cloture motion with respect to the Bedoya nomination because we have some absences due to illness.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.